

EXHIBIT B

Proposed Order

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Acting United States Trustee for Region 3¹

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

PG&E CORPORATION,

- and -

**PACIFIC GAS AND ELECTRIC
COMPANY,**

Debtors.

- ☐ Affects PG&E Corporation
☐ Affects Pacific Gas and Electric Company
☒ Affects both Debtors

** All papers shall be filed in the lead case,
No. 19-30088 (DM)*

Bankruptcy Case
No. 19-30088 (DM)

Chapter 11

(Lead Case)

(Jointly Administered)

**ORDER APPOINTING FEE EXAMINER AND ESTABLISHING PROCEDURES
FOR CONSIDERATION OF REQUESTED FEE COMPENSATION AND
REIMBURSEMENT OF EXPENSES**

Upon consideration of the Motion of the United States Trustee for Order Appointing Fee Examiner and Establishing Procedures for Consideration of Requested Compensation and Reimbursement of Expenses (the "Motion"), the recommendation of the United States Trustee (the

¹Andrew R. Vara, Acting United States Trustee for Region 3, is acting in this appointment for Tracy Hope Davis, United States Trustee for Region 17, who has recused herself.

1 “U.S. Trustee”) to appoint Bruce A. Markell as the Fee Examiner in these Chapter 11 cases, the
2 *Order Authorizing Debtors to Establish Procedures for Interim Compensation and Reimbursement*
3 *of Expenses of Professionals* (the “Interim Compensation Order”, ECF No. 701);² and given that the
4 size and complexity of the above-captioned jointly administered chapter 11 cases (the “Chapter 11
5 Cases”) likely will result in the filing of numerous, fee applications; and it appearing that the
6 appointment of a fee examiner is appropriate pursuant to section 105(a) of title 11 of the United
7 States Code (the “Bankruptcy Code”), Rule 9017 of the Federal Rules of Bankruptcy Procedure (the
8 “Bankruptcy Rules”), Rule 706 of the Federal Rules of Evidence, Bankruptcy Local Rule 9014-
9 1(b)(1)(D) of the United States Bankruptcy Court for the Northern District of California (the “Local
10 Rules”); and it further appearing that (a) this Court has jurisdiction over this matter pursuant to 28
11 U.S.C. §§ 157 and 1334 and (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and the
12 Court may enter a final order consistent with Article III of the U.S. Constitution,

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15 **IT IS HEREBY ORDERED THAT:**

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17 1. Bruce A. Markell is appointed and shall be employed as the Fee Examiner in these
18 Chapter 11 Cases. Based upon the Declaration of Bruce A. Markell in Support of the Motion,
19 Professor Markell does not hold or represent an interest adverse to the estate and is a disinterested
20 person as defined under the Bankruptcy Code.

21 2. Unless otherwise ordered by this Court, this Order shall apply to all professionals in
22 these Chapter 11 Cases requesting compensation and/or reimbursement of expenses for services
23 rendered pursuant to sections 327, 330 and 331, but excluding (i) ordinary course professionals
24 employed by the Debtors in accordance with the *Order Pursuant to 11 U.S.C. §§ 105(a), 327, 328,*
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28 ² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Interim Compensation Order.

1 and 330 Authorizing the Debtors to Employ Professionals Used in the Ordinary Course of Business
2 *Nunc Pro Tunc to the Petition Date* [ECF No. 707] (the “OCP Order”),³ and (ii) members of the
3 Official Committee of Unsecured Creditors and the Official Committee of Tort Claimants
4 (collectively, the “Committees”) appointed in these Chapter 11 Cases, on account of such members’
5 applications for reimbursement of expenses incurred in such capacity.
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7 3. The terms and conditions of the Interim Compensation Order shall not be modified
8 by this Order, except that: concurrently with the filing of each Monthly Fee Statement, each Interim
9 Fee Application, and each final fee application (“Final Fee Application” and collectively with
10 Monthly Fee Statements and Interim Fee Statements, the “Applications,” and each an
11 “Application”), the professional filing such Application (“Applicant”) shall send to the Fee
12 Examiner by electronic mail the Application and all supporting documents, in a format or formats
13 set forth in any protocol promulgated by the Fee Examiner (“Protocol”). The Application shall
14 contain the fee detail containing the time entries and the expense detail (the “Fee Detail”) in a
15 searchable electronic format specified in any Protocol (such as Ledes). An Applicant need not send
16 the Fee Examiner the Fee Detail for any Interim Fee Application or Final Fee Application if such
17 Applicant has previously submitted all of the Fee Detail relevant to such Interim Fee Application
18 Request or Final Fee Application to the Fee Examiner in an acceptable electronic format, whether
19 in conjunction with the relevant Monthly Fee Application or otherwise. If any Applicant cannot
20 reasonably convert its Fee Detail to one of the electronic formats specified in the Protocol, the Fee
21 Examiner will work with such Applicant to find an appropriate electronic format..
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27 ³To the extent any professionals employed pursuant to the OCP Order are required to file formal fee applications with
28 this Court pursuant to the terms of the OCP Order, the fees and expenses of such professional set forth in such formal
fee application shall be reviewed by the Fee Examiner as set forth herein.

1 4. All previously filed Applications and related Fee Details shall be provided to the Fee
2 Examiner by each Retained Professional within 21 days of entry of this Order. All previously filed
3 Applications, all future Applications, and all other documents, notices, or pleadings required to be
4 sent to or served upon any Notice Party under the Interim Compensation Order on and after the date
5 hereof, shall be served upon the Fee Examiner at the following address: Bruce A. Markell, 541 N.
6 Fairbanks Ct., Ste 2200, Chicago, IL 60611-3710; email: bamexampge@gmail.com.

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8 5. The Interim Compensation Order is hereby modified to permit the Fee Examiner to
9 have the status of a professional who may object to Applications. In accordance with the Interim
10 Compensation Order, upon the expiration of the Objection Deadline, each professional (including
11 the Fee Examiner) shall be permitted to file a certificate of no objection with this Court after which
12 the Debtors are authorized to pay each professional an amount equal to the 80% of the fees and
13 100% of the expenses requested in the Monthly Fee Application that are not subject to an objection
14 pursuant to the procedures set forth in the Interim Compensation Order, including an informal
15 objection or inquiry by the Fee Examiner.
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18 6. The Fee Examiner shall:

- 19 a. establish, subject to court review and approval, a Protocol, which shall contain
20 procedures for the submission and consideration of monthly invoices, Interim Fee
21 Applications, and Final Fee Applications filed by each Applicant in these Chapter
22 11 Cases;
- 23 b. review Monthly Invoices, Interim Fee Applications and Final Fee Applications
24 filed by each Applicant in these Chapter 11 Cases (along with the Fee Detail
25 related thereto), and to the extent possible, the Fee Examiner shall avoid
26 duplicative review;
- 27 c. during the course of his review of an Application, consult, as he deems
28 appropriate, with each Applicant concerning such Application;

- 1 d. during the course of his review of an Application, review, to the extent
2 appropriate, any relevant documents filed in these Chapter 11 Cases to be
3 generally familiar with these Chapter 11 Cases and the dockets;⁴
- 4 e. within twenty-one (21) days after an Applicant files an Interim Fee Application
5 or Final Fee Application, serve an initial report (the “Initial Report”) on the
6 Applicant designed to quantify and present factual data relevant to whether the
7 requested fees, disbursements, and expenses are in compliance with the
8 applicable standards of sections 328, 329, 330, and 331 of the Bankruptcy Code,
9 Rule 2016 of the Bankruptcy Rules, and whether the Applicant (if required) has
10 made a reasonable effort to comply with the U.S. Trustee's requests for
11 information and additional disclosures as set forth in the Guidelines for
12 Reviewing Applications for Compensation and Reimbursement of Expenses
13 Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases Effective
14 as of November 1, 2013 (the “U.S. Trustee Guidelines”);
- 15 f. during the period between service of the Initial Report and filing of the Final
16 Report (as defined below), engage in written communication with each
17 Applicant, the objective of which is to resolve matters raised in the Initial Report
18 and endeavor to reach consensual resolution with each Applicant with respect to
19 that Applicant's requested fees and expenses. The Fee Examiner may also use
20 the resolution process to revise findings contained in the Initial Report. Each
21 Applicant may provide the Fee Examiner with written supplemental information
22 that the Applicant believes is relevant to the Initial Report;
- 23 g. following communications between the Fee Examiner and the Applicant and the
24 Fee Examiner's review of any supplemental information provided by such
25 Applicant in response to the Initial Report, conclude the informal resolution
26 period by filing with this Court a report with respect to each Application (the
27 “Final Report”) within fourteen (14) days after the service of the Initial Report.
28 The Final Report shall be in a format designed to quantify and present factual
data relevant to whether the requested fees and expenses of each Applicant are in
compliance with the applicable standards of section 330 of the Bankruptcy Code
and Rule 2016 of the Bankruptcy Rules, and whether the Applicant has made a
good faith reasonable effort to comply with the U.S. Trustee Guidelines. ; and

⁴The Fee Examiner shall be deemed to have filed a request for notice of papers filed in these cases pursuant to Bankruptcy Rule 2002, and the Fee Examiner shall be served with all such papers.

1 h. serve each Final Report on counsel for the Debtors, counsel for the Committees,
2 the U.S. Trustee, and each Applicant whose fees and expenses are addressed in
3 the Final Report.

4 7. An Applicant subject to a Final Report may (i) file with this Court a response (“Final
5 Response”) to such Final Report no later than twenty-one (21) days after the Fee Examiner’s service
6 of a Final Report and request a ruling with respect to any fees and/or expenses to which an objection
7 was made (the “Incremental Amount”) at the next interim fee hearing or the final fee hearing or, in
8 the alternative, (ii) defer filing the Final Response and request a ruling at any subsequent fee hearing,
9 so as to allow continuing discussions with the Fee Examiner. Any Final Response shall be served
10 upon those parties served with the Final Report and the Fee Examiner.

12 8. The Fee Examiner, the Applicants, and the Debtors shall use best efforts to have the
13 undisputed portion of Applications allowed by this Court and paid as soon as reasonably practicable,
14 even if the Incremental Amount remains disputed and subject to the procedures set forth above.

15 9. An Interim Fee Application or Final Fee Application shall not be considered by this
16 Court prior to review by the Fee Examiner and the submission to this Court of a Final Report specific
17 to such Application, unless the Fee Examiner has expressly stated that such hearing should go
18 forward without the Final Report being filed. If applicable, hearings on the Applications shall be
19 scheduled by this Court in consultation with the Debtors’ counsel after the filing of the applicable
20 Final Reports by the Fee Examiner.

21 10. Any of the periods set forth above may be extended with the consent of the Fee
22 Examiner, the applicable Applicant, and Debtors’ counsel. Should an Applicant fail to meet one or
23 more deadlines set forth herein for the review of an Application and, in the reasonable discretion of
24 the Fee Examiner, the Applicant’s failure to meet these deadlines does not allow sufficient time for
25 the review process to be completed, such Application shall be heard at a subsequent hearing date.

1 Nothing herein shall be construed or interpreted to require the filing of Final Reports on all
2 Applications prior to any Application and the Final Report specific thereto being considered by this
3 Court, and the delay or adjournment of consideration of an Application shall not affect the timing of
4 hearings on the Applications of other Applicants.
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6 11. The Fee Examiner is authorized to notice, defend, or appear in any appeal regarding
7 an Application and to conduct and respond to discovery in connection with any Application,
8 including making himself available for deposition and cross-examination by the Debtors, the
9 Committees, the U.S. Trustee, and other interested parties consistent with Rule 706 of the Federal
10 Rules of Evidence.
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12 12. The Fee Examiner may retain attorneys and other professionals, assistants, or
13 consultants to the extent he deems it necessary to discharge his duties. The Fee Examiner's retention
14 of professionals shall be subject to Court approval under standards equivalent to 11 U.S.C. § 327.
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16 13. If a Retained Professional or its client provides privileged or work product
17 information to the Fee Examiner and identifies the confidential nature of such information to the Fee
18 Examiner, the Fee Examiner shall treat such information as confidential. The disclosure of such
19 information to the Fee Examiner shall not be deemed to be a waiver by the disclosing party of any
20 applicable work product, attorney client, or other privilege.
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22 14. The fees and expenses of the Fee Examiner according to the structure set forth in the
23 Fee Examiner's declaration is approved and shall be subject to application and review pursuant to
24 section 330 of the Bankruptcy Code, Bankruptcy Rule 2016, *the United States Bankruptcy Court*
25 *Northern District of California Guidelines for Compensation and Expense Reimbursement of*
26 *Professionals and Trustees*, the U.S. Trustee Guidelines, and the Interim Compensation Order, and
27 shall be paid from the Debtors' estates as an administrative expense under section 503(b)(2) of the
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1 Bankruptcy Code. The fees paid to the Fee Examiner for his services shall be determined and
2 charged in accordance with sections 327-331 of the Bankruptcy Code and shall not include any
3 success fees. Further, the Fee Examiner's expenses shall be subject to the information detail
4 requirements set forth in Bankruptcy Rule 2016.
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6 15. Counsel for the Debtors shall promptly serve a copy of this Order, in accordance with
7 the Local Rules on (i) the U.S. Trustee, (ii) counsel for the Committees, (iii) the Fee Examiner, (iv)
8 counsel for the legal representative for future personal injury claimants, and (v) each Retained
9 Professional, other than ordinary course professionals, employed by the Debtors or the Committees
10 in these Chapter 11 Cases pursuant to section 327 of the Bankruptcy Code.
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12 16. The Fee Examiner, as an officer of the court, and those employed or paid by him with
13 respect to this appointment shall have the maximum immunity permitted by law from civil actions
14 for all acts taken or omitted in the performance of his duties.
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16 17. Nothing in this Order shall alter or impair the right of the U.S. Trustee or any party
17 in interest to object to Applications subject to this Order. Nothing in this Order shall alter or modify
18 prior orders governing the retention of professionals.

19 18. The Debtors and the Fee Examiner are authorized to take any and all actions
20 necessary to implement and effectuate the terms of this Order.

21 19. The terms and conditions of this Order shall be immediately effective and enforceable
22 upon its entry.
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24 20. In the event a chapter 11 trustee is appointed in these cases, such appointment will
25 not terminate or otherwise modify the duties and responsibilities of the Fee Examiner. The Fee
26 Examiner's appointment shall only be terminated or otherwise modified by entry of an Order of the
27 Court.
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1 21. This Court shall retain jurisdiction over all matters arising from or related to the
2 interpretation and implementation of this Order. Notwithstanding any provisions of this Order to
3 the contrary, this Court shall retain the ultimate authority to determine whether fees and expenses
4 requested are necessary and reasonable under section 330 of the Bankruptcy Code.
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7 **END OF ORDER**
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